

# Order

Michigan Supreme Court  
Lansing, Michigan

July 5, 2006

Clifford W. Taylor,  
Chief Justice

ADM File No. 2006-05

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

Proposed Amendment of  
Rules 6.610, 6.625, and 7.103  
of the Michigan Court Rules

---

On order of the Court, this is to advise that the Court is considering amendments of Rules 6.610, 6.625, and 7.103 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [www.courts.michigan.gov/supremecourt](http://www.courts.michigan.gov/supremecourt).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining.]

Rule 6.610 Criminal Procedure Generally

(A)-(E) [Unchanged.]

(F) Sentencing.

(1)-(2)[Unchanged.]

(3) Immediately after imposing a sentence of incarceration, the court must advise the defendant, on the record or in writing, that:

(a) if the defendant wishes to file an appeal and is financially unable to retain a lawyer, the court will appoint a lawyer to represent the defendant on appeal, and

(b) the request for a lawyer must be made within 7 days after sentencing.

(G)-(H) [Unchanged.]

#### Rule 6.625 Appeal; Appointment of Appellate Counsel

- (A) An appeal from a misdemeanor case is governed by subchapter 7.100.
- (B) If the court imposed a sentence of incarceration and the defendant is indigent, the court must enter an order appointing a lawyer if, within 7 days after sentencing, the defendant files a request for a lawyer or makes a request on the record. Unless there is a postjudgment motion pending, the court must rule on a defendant's request for a lawyer within 7 days after receiving it. If there is a postjudgment motion pending, the court must rule on the request after the court's disposition of the pending motion and within 7 days after that disposition. If a lawyer is appointed, the 21 days for taking an appeal pursuant to MCR 7.101(B)(1) and MCR 7.103(B)(1) shall commence on the day of the appointment.

#### Rule 7.103 Application for Leave to Appeal

- (A) [Unchanged.]
- (B) Procedure.
  - (1) Except when another time is prescribed by statute or court rule, an application for leave to appeal must be filed within 21 days after the entry of the judgment or order appealed from.
  - (2)-(6) [Unchanged.]
- (C) [Unchanged.]

Staff Comment: The Court received correspondence dated January 10, 2006, from John T. Berry, Executive Director of the State Bar of Michigan, informing the Court that the Representative Assembly of the State Bar of Michigan had unanimously approved a proposal, recommended by the Criminal Jurisprudence and Practice Committee, that the Court amend MCR 6.610 by adding a new subrule (I). The bar believes that its proposed language to the rule would ensure that individuals who are convicted in district court are aware of their right to counsel pursuant to *Halbert v Michigan*, 545 US \_\_\_\_; 125 S Ct

2582; 162 L Ed 2d 552 (2005), and their right to appeal. The Court, however, instead is proposing amendments of the rule that would reflect alternative language.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by November 1, 2006, at P.O. Box 30052, Lansing, MI 48909, or [MSC\\_clerk@courts.mi.gov](mailto:MSC_clerk@courts.mi.gov). When filing a comment, please refer to ADM File No. 2006-05. Your comments and the comments of others will be posted at [www.courts.mi.gov/supremecourt/resources/administrative/index.htm](http://www.courts.mi.gov/supremecourt/resources/administrative/index.htm).

CAVANAGH, J. I concur with publishing the stated proposal. However, the Court also received the following proposal from the State Bar of Michigan:

Proposed MCR 6.610(I) - Notification of Appellate Rights in the District Court after Misdemeanor Conviction

At the time of plea or sentence, the Court shall advise the Defendant of his/her appellate rights as follows:

(1) After Trial. You have a right to appeal your conviction and sentence. If you wish to do so, you must file your claim of appeal within 21 days of the sentencing date. If you cannot afford an attorney, you may petition this court for a court appointed attorney.

(2) After plea of guilty or no contest. You have the right to file an application for leave to appeal your conviction and sentence. If you wish to do so, you must file your application within 6 months of the sentencing date. If you cannot afford an attorney, you may petition this court for a court appointed attorney.

I would solicit public comments on this proposal as well.

KELLY, J., concurred with CAVANAGH, J.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 5, 2006

*Corbin R. Davis*  
Clerk